

Co-operatives Act 1996

Death of a member

One issue dealt with comprehensively in the Co-operatives Act relates to the death of a member.

In a **co-operative with share capital**, if a member dies, the Board of directors of the relevant co-operative must transfer any shares held by that member. The shares must be transferred to the member's personal representative (if the Board reasonably considers the person will be an "active" member), or the person specified by the personal representative, within 3 months' of being notified by the personal representative of the claim.

In addition, the deceased member's other interests in the co-operative must likewise be transferred as above. "Interests", for this purpose would include:

- the membership itself;
- any credit balance due to the member;
- any loan from or to, or deposit with, the co-operative; and
- any surplus realised on the sale of property by the co-operative, of which the deceased member was mortgagee.

If the total value of shares and interests held in the co-operative by the deceased member is less than \$10,000, the Board may transfer the shares or interests to the person who *appears* to the Board to be entitled. If there is no will this will be the person who appears to be entitled to obtain a grant of administration, in which case, the transfer will be subject to any trusts as if the grant of administration had been obtained. If there is a will the transferee may be any person who appears to the Board to be entitled to the shares or interests under the will.

In a **co-operative without share capital** any "interests", as listed above, must be transferred in the same manner.

Any transfer by the co-operative as above is protected from claims by third parties. Of course, if the co-operative is not aware that the member has died it does not have the obligations described above. □

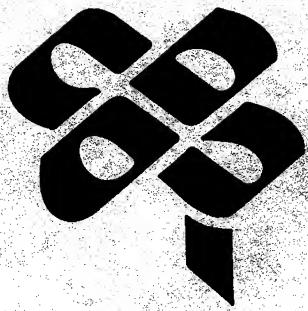
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The Federation strongly recommends that each co-operative obtains its own professional advice to ensure that the specific circumstance of the co-operative are taken into account.



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